U.S. Department of Justice

Immigration and Naturalization Service

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*OFFICE OF ADMINISTRATIVE APPEALS*
*425 Eye Street N.W.*
*ULLB, 3rd Floor*
*Washington, D.C. 20536*

[redacted]

File: [redacted] Office: CALIFORNIA SERVICE CENTER Date: JAN 30 2001

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

PUBLIC COPY

identification data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Mulrean, Acting Director
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Philippines, as the fiance(e) of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K).

The director denied the petition after determining that the petitioner and the beneficiary had not previously met in person, as required by section 214(d) of the Act. In reaching this conclusion, the director found that the petitioner's failure to comply with the statutory requirement was not the result of extreme hardship to the petitioner, or unique circumstances.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiance(e)" as:

> An alien who is the fiancee or fiance of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry....

Section 214(d) of the Act, 8 U.S.C. 1184(d) states in pertinent part that a fiancee petition:

> shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two years before the date of filing the petition, have a bonafide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival...

The petition was filed with the Service on August 9, 1999. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 9, 1997 and ended on August 9, 1999.

On the Petition for Alien Fiance(e) (Form I-129F), the petitioner specified that he and beneficiary had not personally met because:

> I have a great fear of flying and I will not fly especially for 16 hours. She [beneficiary] hasn't been here because it just cost [sic] too much to go back and forth just for a visit.

On appeal, the petitioner sets forth an argument premised on the definition of "met" according to the Random House Dictionary. The petitioner argues that there are many different definitions of "met," and because he and the beneficiary have been corresponding in letters, through the internet, and speaking on the telephone since 1996, they have "met," even though their meetings have not been in person. The petitioner also presents evidence on appeal from a physician concerning a "cervical intervertebral disc disease" that the physician claims prevents the beneficiary from tolerating an airplane trip.

Pursuant to 8 C.F.R. 214.2(k)(2), a district director may exercise discretion and waive the requirement of a personal meeting between the two parties if it is established that compliance with the statutory requirement would:

(1) Result in extreme hardship to the petitioner; or

(2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice.

The petitioner's appeal, while compelling in its arguments, does not persuade the Service to conclude that a favorable exercise of discretion by the district director is warranted.

First, the Service does not disagree with the petitioner's argument that there are many definitions of "met;" however, the statute clearly states that the beneficiary and the petitioner must "have previously met **in person** within 2 years before the date of filing the petition." [emphasis added]. This statutory language does not leave any room to interpret the meaning of "met" other than as a physical, face-to-face meeting.

Second, the cost of an airline ticket from the Philippines to the United States is not extreme hardship to the petitioner. The record contains evidence that the petitioner has wired money to the beneficiary in the Philippines on several occasions, and it is not unreasonable to conclude that the beneficiary could save this money and use it to purchase an airline ticket to a third country, such as Mexico. The petitioner, a resident of southern California and citizen of the United States, could travel to Mexico to meet the beneficiary.

Finally, the petitioner presented a note from a physician, which states that the petitioner is unable to fly due to a back problem. The Service questions the veracity of the physician's note, as the petitioner did not previously raise this medical condition in the initial I-129F petition. The reason that the petitioner provided for being unable to meet the beneficiary was his fear of flying.

Doubt cast on any aspect of the petitioner's proof may, of course,

lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. Matter of Ho, 19 I&N Dec. 582, 591 (BIA 1988). Because the Service questions the truthfulness of the evidence concerning the petitioner's medical condition, it also questions the petitioner's other admissions regarding his reasons for being unable and/or unwilling to meet the beneficiary.

The petitioner has failed to establish that he and the beneficiary have personally met as required by section 214(d) of the Act, and that extreme hardship or unique circumstances qualify him for a waiver of the statutory requirement. Pursuant to 8 C.F.R 214.2(k)(2), the denial of this petition is without prejudice, and the petitioner may file a new I-129F petition after he and the beneficiary have met in person.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden.

**ORDER:** The appeal is dismissed.